IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE**

**and**
**THE HON'BLE MR JUSTICE C.V.RAMULU**

**Taken up WRIT PETITION NO : 14006 of 2004**

Between:

Paper Clipping of "The Hindu" Daily English News Paper dated 5-8-2004, containing the news under the caption "Ancient Arch to be pulled down".

**..... PETITIONER**

AND

1 The Commissioner and Special Officer, Municipal Corporation of Hyderabad, Hyderabad.
2 The Secretary to the Govt. of A.P., Municipal Administration Department, Secretariat, Hyderabad.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order, direction, or a writ, more particularly one in the nature of Mandamus calling for remarks and records from the Respondents herein in and connected to (1) the widening of the Chaderghat-Dar-us-Shifa-road from 60 to 80 feet in accordance with the master plan, (2) the proposed pulling down of the historic arch, on the Chaderghat-Dar-us-Shifa-road, Hyderabad, which serve as an entry to the Masjid-e-Imamia built by a Qutb Shahi Noble, by name Tahmasq Khan, on whose name the locality is known, and (3) constructing of a replica of the arch just behind it, a 20 feet away by the Municipal Corporation of Hyderabad and to pass appropriate orders directing the concerned authorities to stop the pulling down the Tahmas khan arch.

**Counsel for the Petitioner:NEWS ITEMS**

**Counsel for the Respondent No.1: Mr. Ghanta Rama Rao, SC for Municipal**

**Corporation of Hyderabad**

**Counsel for the Respondent No.2: GP FOR MUNCIPAL ADMN. & URBAN DEVELOPMENT**

**The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)**

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On the basis of the paper clipping of Hindu daily dated 5.8.2004, this petition was taken up for consideration. The newspaper clipping had pointed out that during widening of Chaderghat-Dar-us-Shifa road from 60 to 80 feet in accordance with Master Plan, there was proposal to pull down the historic Arch, which served as an entry to Masjid-e-Imamia, built by the Kutub Shahi noble and that the Municipal Corporation was constructing a replica of the said Arch just behind it, 20 feet away from the road.

Respondents were called upon to file their affidavits. Mohd. Khalid Sarwar, Assistant City Planner, Circle-I of Municipal Corporation has filed affidavit stating that when Master Plan was drawn up for widening the road to 80 feet to ensure free flow of traffic, it was noticed that around 197 private properties would be affected in the road widening process and it is stated that 153 properties were already demolished by way of negotiations or by following the procedure under the Land Acquisition Act. Arch of Thahmasip Khanpura Mosque was also coming in the road widening process. The matter was examined by the City Level Coordination Committee consisting of 12 Heads of different Departments, rural level officers and others. The Committee and the rural level Officers inspected the road widening work. Residents of the area were also present during inspection and they requested the Committee to

rebuild the Arch with the same architectural pattern behind the existing Arch, which, in fact, had been in a dilapidated condition. Report was obtained from the Executive Engineer, Municipal Corporation who verified and certified that there is every possibility of collapsing of Arch at any time and therefore the Arch will have to be removed. It is also pointed out that the Arch was not notified as one of the heritages in the list published in the notification issued under Section13(1) of the Hyderabad Urban Development Authorities Zonal Regulation Act, 1991. However, the larger public interest was taken into consideration and the Municipal Corporation was asked to rebuild it with the same architectural pattern. Accordingly, the work was undertaken by the Municipal Corporation.

We have gone through the Minutes of the City Level Coordination Committee held on 28.6.2001 as also the report of the Executive Engineer, Municipal Corporation as also the plan showing the Arch. When the Arch is not one of the notified Archs, the action of the respondents cannot be held to be in violation of any obligations cast upon them.

The writ petition, accordingly, stands closed.

Sd/- M.A.NAYEEM PASHA

ASST REGISTRAR

//True Copy//

Section Officer

To

1. The Commissioner and Special Officer, Municipal Corporation of Hyderabad, Hyderabad.
2 The Secretary to the Govt. of A.P., Municipal Administration Department, Secretariat, Hyderabad.

3. Two C.Cs. to the G.P. for Municipal Administration & Urban Development, High Court Buildings, Hyderabad.(OUT)

4. Two C.D. copies

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HIGH COURT

DATED:

23.8.2004

ORDER:

W.P.NO. 14006 OF 2004

CLOSING THE

WRIT PETITION